IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

WEDNESDAY, THE TWENTY FIRST DAY OF APRIL,
TWO THOUSAND AND FOUR

: PRESENT :

THE HON'BLE MR.JUSTICE: N.V. RAMANA

W.P. No. 7559 of 2004

Between:

1. M/s. Vensa Biotek Ltd.,
   Having its registered office at G. Ragampeta, Peddapuram (Mandal),
   East Godavri District, Rep: by its Director (Technical) Sri I. Murali Krishna.
2. V. Gopi Krishna …Petitioners

AND

1. The Union of India, rep: by its Secretary, Ministry of Energy,
   Central Secretariat Buildings, New Delhi-1.
2. The Andhra Pradesh Electricity Regulatory Commissioner, Red Hills,
   Hyderabad rep: by its Chairman.
3. Non-Conventional Energy Development Corporation of Andhra Pradesh ltd.,
   Nampally , Hyderabad rep: by its Managing Director.
4. The Andhra Pradesh Transmission Company Ltd.,
   Vidyuth Soudha, Somajiguda, Hyderabad,
   Rep: by its Chairman cum Managing Director. ..Respondents

Petition under Article 226 of the Constitution of India praying that in circumstances stated in the Affidavit filed herein, the High Court will be pleased to issue an appropriate writ, order or direction , more particularly a writ in the nature of mandamus the action of the 1st respondent in not establishing the Tribunal as contemplated under section 110 of the Electricity Act,2003 as violative of the principles of natural justice and further declare that the action of the 2nd respondent in revising the purchasing rate of the Electricity Energy through its order dated 20.3.2004 in R.P.No.84/2003 in O.P.No.1025 of 2000 with a drastic reduction from the prevailing tariff without considering the objections and the scientific data supplied by the petitioner through its Association, and even in negation of the recommendations of the
3rd respondent the expert body as being illegal , arbitrary, violative of Principles promissory estoppels besides being violative of Article 19(1) (g) of the constitution of the India and the established judicial precedents, and consequently set aside the order dated 20.3.2004 of the 2nd respondent with a direction to the 1st respondent to establish Appellate Electricity Tribunal as was envisaged under section 113 of the Electricity Act, 2003 and pass such other order or orders as are deemed fit and proper.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr,C. Kodandaram Reddy, Advocate for the petitioners and of Mr. T. Surya Karan Reddy, Standing Counsel for Central Government for Respondent No.1 and Mr. P. Sri Raghuram, Advocate for Respondent No.2 and none appeared for Respondent No.3 and Mrs. M. Vinobha Devi, Advocate for Respondent No.4.

The Court made the following ORDER:

The learned counsel for the petitioners submits that under section 110 of the Indian Electricity Act, 2003 respondent No.1 Central Government is under an obligation to establish an appellate Tribunal for Electricity to hear appeals against the Orders of respondent No.2 Electricity Regulatory Commission, and in asmuch as no Appellate Tribunal has been established by respondent No.1-Central Government, the petitioners are left with no remedy, except to invoke the jurisdiction of this Court under Article 226 of the Constitution of India to assail the orders of respondent No.2 Electricity Regulatory Commission.

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The learned Standing Counsel for Central Government took notice for respondent No.1 Central Government and sought time to get instructions as to the date by which the Appellate Tribunal could be established. The learned Standing Counsels appearing on behalf of respondent Nos.2 and 3 tool notice, and sought time to file counter.

The learned counsel for the petitioners contends that failure to constitute the Appellate Tribunal has deprived the petitioners of their Statutory right of appeal. He further contends that if the new tariff order is enforced, the petitioners will have to close down their unit.

In the above circumstances, I consider it appropriate to make the following order:

For a period of three weeks, respondent No.3 shall continue to pay to the petitioners for the power supplied by them as per the tariff existing prior 1.4.2004. It is needless to mention that any difference of amount, between the old and new tariff, paid by respondent No.3 to the petitioner by virtue of this interim Order, can always be adjusted by respondent No.3 against the future bills of the petitioners, in the event the writ petition is dismissed.

List the matter along with W.P.No. 6207 of 2004.

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To

1. The Secretary, Union of India, Ministry of Energy,
   Central Secretariat Buildings, New Delhi-1.
2. The Chairman, Andhra Pradesh Electricity Regulatory Commissioner, Red Hills,
   Hyderabad

3. The Managing Director,Non-Conventional Energy Development Corporation of
Andhra Pradesh ltd.,Nampally , Hyderabad .
4. The Chairman cum Managing Director, Andhra Pradesh Transmission Company Ltd.,Vidyuth Soudha, Somajiguda, Hyderabad,
5. . One spare copy.

RV

High Court

NVR,J

Dated 21 4.2004

Note:
List the matter along with
W.P.No.6207 of 2004.

ORDER
WP.No.7559 of 2004

High Court

Drafted by RV
Date: 23.4.2004

NVR,J

Dated 21 .4.2004

Note:
List the matter along
W.P. No.6207 /2004.

ORDER
WP.No.7559 of 2004